IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2771 OF 1992

1) K.V. Kadam,
2) K.B. Singh,
3) M.W. Dubhale,
4) H.B. Hatekar,
5) M.D. Patil,
6) J.P. Mishra,
7) J.K. Alande,
8) S.K. Dhumal,
9) A.G. Kangane,
10) J.T. Jadhav,
11) A.B. Vharkat,
12) B.A. Mapkar,
13) P.Y. Desai,
14) S.K. Kundavale,
all of Bombay Indian
Inhabitants, employed
as Security Guards with
Videsh Sanchar Nigam,
at Fort, Bombay .. Petitioners.

V/s.

1) Videsh Sanchar Nigam,
a Statutory Corporation,
having its office at
Fort, Bombay - 400 001

2) Security Guards Board for
Greater Bombay & Thane,
a Statutory body/Board,
having its office at
Cooper Roller Mills
Compound, L.B.S. Marg,
Bhandup (West),
Bombay - 400 078

3. Union of India,
through Secretary, Ministry
of Labour, New Delhi .. Respondents.

None for the petitioner.

Mr.K.J. Presswala i/b. Mulla & Mulla for respondent No.1.

CORAM : R.M. LODHA &
J.P. DEVADHAR, JJ.

DATED : 5TH AUGUST, 2005.

ORAL JUDGMENT (Per R.M. Lodha, J.) :

None appears for the petitioners. Mr.Presswala, the learned counsel appears for respondent No.1. Nobody appears for other respondents.

2. The case of the petitioners is founded on the Notification bearing SO No.779(E) dated December 9, 1976. In para 7 of the writ petition, the following statement is made :

> "7. The Petitioners state that in 1976, the Respondent No.2 issued a Notification bearing No.S.O.773(E), dated 9th December, 1976, which prohibited employment of Contract labour from 1st March 1977 for sweeping, clearing dusting and watching the buildings owned or occupied by establishment in respect of which the appropriate Government under the Contract Labour (Regulation & Abolition) Act, 1971 is the Central Government. A copy of the Notification is annexed herewith as mentioned above. The Petitioners submit that by this Notification, the Respondent No.1 was prohibited from employing the contract labour for the purpose of watching the buildings. The Petitioner submits that the building where the Petitioners are employed is the building owned and occupied by the 1st Respondent in respect of which the appropriate Government is the Central Government. The said building is owned and occupied by the 1st Respondent. The Petitioners submit that under Section 2 of the Contract Labour (Regulation & Abolition) Act, 1970, "Appropriate Government is defined as :-
>
> 1. Appropriate Government means in relation to :-

> (i) Any establishment pertaining to any industry on by or under the authority of the Central Government or pertaining to any such 'Controlled Industry' as may be specified in this behalf by the Central Government.
>
> Further, Section 2(d) of the said Act defines 'Controlled Industry' as any industry, the Control of which by the Union has been declared by the Central Act to be expedient, in the public interest."

3. Then in para 13 of the writ petition, averment is made thus :

> "13. ..... Hence also the Petitioners submit, under this interpretation also, the Respondent No.1 is employing the Petitioners as contract Labour is in contravention of the prohibition laid down in the notification dated 9th December 1976 mentioned above. Hence also the Petitioners must be treated as employees of the Respondent No.1."

4. In Steel Authority of India Ltd. & Others V/s. National Union Waterfront Workers & Others, (2001) 7 SCC 1, the Supreme Court held that the Notification SO No.779(E) dated December 9, 1976 was violative of Section 10 of the Contract Labour (Regulation & Abolition) Act, 1971 and showed non-application of mind by the Central Government and consequently quashed the Notification dated December 9, 1976 prospectively.

5. The writ petition, in view of the decision of the Supreme Court in the case of Steel Authority

of India Ltd. & Others, is liable to be dismissed.

6. Besides that, we are informed by the learned counsel for respondent No.1 that Videsh Sanchar Nigam which was a statutory Corporation has ceased to be so and is not 'State' within the meaning of Article 12 of the Constitution of India.

7. For all these reasons, we are satisfied that the writ petition is liable to be dismissed. We dismiss it, accordingly. Rule is discharged. No costs.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)